IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 34440 of 2003(Y)

PETITIONER:

P.J.JOHN S/O. JOHN KURIEN,
PUTHUVEEDU, EAST MALAYAMMA, P.O.REGIONAL ENGG. COLLEGE, CHATHAMANGALAM, KOZHIKODE DISTRICT PIN 673 601
(JUNIOR SUPERINTENDENT (RETIRED)
REGIONAL ENGINEERING COLLEGE OFFICE, CALICUT.

BY ADV. SRI.P.K.RAMKUMAR

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY SECRETARY, DEPT.OF HIGHER EDUCATION, GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

2. THE REGISTRAR, NATIONAL INSTITUTE OF TECHNOLOGY, CALICUT P.O.REC, CHATHAMANGALAM-673 601, KOCHIKODE DISTRICT.

BY ADV. SRI.K.P.DANDAPANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 34440/2003 Y

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE JUDGMENT OF THIS COURT IN OP NO. 18806/99.

EXT.P2. COPY OF THE ORDER BY THE R1 THROUGH THE UNDER SECRETARY TO GOVT. DT. 29/4/2002.

EXT.P3. COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE NIT, CALICUT DT. 17/09/2003.

EXT.P4. COPY OF THE REPLY GIVEN TO EXT. P3 REPRESENTATION BY THE DIRECTOR NIT, CALICUT DT. 8/10/03.

EXT.P5. COPY OF THE SERVICE BOOK OF THE PETITIONER.

EXT.P6. COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE PRINCIPAL GOVT. TRAINING COLLEGE, TRIVANDRUM DT. 16/2/65.

EXT.P7. COPY OF THE PROCEEDINGS OF THE PRINCIPAL AND HONORARY DIRECTOR GOVERNMENT TRAINING COLLEGE, TRIVANDRUM DTD. 22/2/65.

EXT.P8. COPY OF THE PENSION RULES OF REGIONAL ENGINEERING COLLEGE.

EXT.P9. COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE SECRETARY HIGHER EDUCATION GOVT. OF KERALA DT. 2/07/98.

EXT.P10. COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE SECRETARY HIGHER EDUCATION GOVERNMENT OF KERALA DT. 18/1/98.

EXT.P11. COPY OF THE PROCEEDINGS OF THE PRINCIPAL REC CALICUT DT. 5/10/95 & 16/10/95.

True copy

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Thottathil B. Radhakrishnan, J.

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W.P.(C)No.34440 of 2003

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Dated this the 5th day of July, 2007.

JUDGMENT

The issue that arises for decision is as to whether the prior service rendered by the petitioner as claimed by him is eligible to be counted by the REC (NIT) for determining the total length of qualifying service for pension. This is an issue which the REC (NIT) has to decide in accordance with their Rules and Regulations and also applying Kerala Service Rules. Such a question has to be answered by the last employer, namely REC (NIT). The consideration of the Government decision in that regard will be of no consequence, more so because, the Rule quoted in the impugned order of the Government could never be the Rule which governs the situation.

2. Petitioner, who was aged 64 years at the time of filing this writ petition in 2003 is still attempting to reach at his goal of getting pension, if he is entitled to, in accordance with law.

In the aforesaid circumstances, this writ petition is allowed directing that the case of the petitioner shall be considered by the REC (NIT) at the highest level possible and appropriate decision taken within a period of three months from the date of receipt of a copy of this judgment and the representation of the petitioner, whichever is later. The impugned Ext.P2 is quashed. The question of entitlement is left open for consideration.

Thottathil B.Radhakrishnan,
Judge.

sl.

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.34440 of 2003

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JUDGMENT

Dated:5-7-2007